

REMARKS

The above amendments are made in response to the outstanding Non-final Office Action dated November 7, 2008. The Examiner's reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claims 1, 2, 8-10, 13 and 15 have been amended to more clearly define the subject matter of the claimed invention. No new matter has been introduced by these amendments.

Claims 1-15 are pending in the present application.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-6, 8 and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Langan, et al. (U.S. Patent No. 6,838,209; hereinafter, "Langan").

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barent, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1, 2, 8 and 9 have been amended to more clearly define the subject matter of the claimed invention. These amendments are fully supported by the disclosure as originally filed, e.g., the drawings of this application.

Claims 1, 8 and 9 are independent claims. Claim 2-6 are directly or indirectly dependent from Claim 1.

The amended Claim 1 includes, inter alia, the following limitation:

the battery package is formed of a laminate film comprising an outer polymer layer, an inner electrically conductive aluminum layer, and an adhesive layer formed on a portion of the inner surface of the aluminum layer, the aluminum layer of the battery package being electrically connected with the positive or negative terminal without passing through the electrode and the aluminum layer being electrically insulated from either of the negative or positive electrodes
(Emphasis added)

The amended Claim 8 includes, inter alia, the following limitation:

A battery package formed of a laminate film comprising an outer polymer layer, an inner electrically conductive aluminum layer and an adhesive layer formed on a portion of the inner surface of the aluminum layer, the aluminum layer being electrically insulated from a negative or positive electrode, wherein a portion of the adhesive layer to be contacted with a positive or negative electrode terminal is removed and a piece made of an electrically conductive material is inserted into the removed portion to form an electrical connection between the aluminum layer and the positive or negative electrode terminal
(Emphasis added)

The amended Claim 9 includes, inter alia, the following limitation:

A battery package formed of a laminate film comprising an outer polymer layer, an inner electrically conductive aluminum layer and an adhesive layer formed on a portion of the inner surface of the aluminum layer, the aluminum layer being electrically insulated from a negative or positive electrodes, wherein at least a portion of the outer polymer layer of the battery package is removed and a piece made of an electrically conductive material is inserted into the removed portion to form an electrical connection between the aluminum layer and positive or negative electrode terminal
(Emphasis added)

As above, the claimed invention includes an inner electrically conductive aluminum layer, which is electrically insulated from negative or positive electrode of a battery. Further, the aluminum layer is electrically connected with the positive or negative terminal (not electrodes) while being insulated from the negative or positive electrode. Thus, the short circuit current can be dispersed toward the aluminum layer inside the battery package when a local short circuit occurs between the positive and negative electrodes due to nail penetration, pressing, impact, exposure to high temperature and so forth (see line 20 on page 10 through lines 4 on page 11 of this application).

Langan is directed to a flexible battery having electrode contact integrated with the battery housing. Applicants respectfully submit that Langan does not disclose the claimed inner electrically conductive aluminum layer being electrically insulated from the negative or positive electrode, and the electrical connection structure between the aluminum layer and the positive or negative electrode terminal while being insulated from the negative or positive electrode, in view of recitations in the amended Claims 1, 8 and 9.

In the outstanding Office Action, the Examiner has stated that Langan discloses the claimed inner aluminum layer (at 13, column 2, lines 65-67). However, the element 13 denotes a conductive layer, but electrically contacts with the electrodes 3 and 5 (see Fig. 1 of Langan), not electrically insulated from the negative or positive electrode.

The examiner further has asserted that Langan discloses the claimed electrical connection structure between the aluminum layer and the positive or negative terminals (Column 3, lines 12-14). However, lines 12-14 on column 2 shows that part of the conductive layer 13 (which contacts the electrodes 3 and 5) is exposed to outside to form external contact surfaces 13a (see Figs. 1 and 3 of Langan), but does **not** disclose the claimed electrical connection structure between the aluminum layer and the positive or negative electrode terminal while being insulated from the negative or positive electrodes. Langan is directed to a tapless (i.e., no terminal) battery.

Therefore, it is respectfully submitted that Langan does not anticipate the claimed invention by failing to disclose all the elements and limitations as set forth in the amended Claims 1, 8 and 9.

Claims 2-6 are also believed not anticipated by Langan, by virtue of their direct or indirect dependency from Claim 1.

Applicants respectfully request the Examiner to review these submissions and withdraw the rejection on Claims 1-6, 8 and 9 under 35 U.S.C. §102(b).

Claim Rejections Under 35 U.S.C. §103

Claims 7, 10-14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Langan in view of Yageta, et al. (U.S. Patent Application Publication No. 2002/0146621; hereinafter, “Yageta”).

In order for an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996). See MPEP 2143.

Establishing a prima facie case of obviousness requires that all elements of the invention be disclosed in the prior art. *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Further, even assuming that all elements of an invention are disclosed in the prior art, an Examiner cannot establish obviousness by locating references that describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would have impelled one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 U.S.P.Q. 1300 (Bd. Pat. App. Int. 1993). The references, when viewed by themselves and not in retrospect, must suggest the invention. *In re Skill*, 187 U.S.P.Q. 481 (C.C.P.A. 1975).

Claim 7 is directly dependent from Claim 1. Claims 10 and 15 are independent claims. Claim 11-14 are directly dependent from Claim 10.

Applicants have amended Claims 10 and 15 to more clearly define the subject matter of the claimed invention.

Regarding Claim 7

Claim 7 is directly dependent from Claim 1.

As discussed above in connection with the 102 rejection, the amended Claim 1 includes an inner electrically conductive aluminum layer, which is electrically insulated from negative or positive electrode of a battery. Further, the aluminum layer is electrically connected with the positive **or** negative electrode terminal (**not** electrode) while being insulated from the negative or positive electrode. Thus, the short circuit current can be dispersed toward the aluminum layer inside the battery package when a local short circuit occurs between the positive and negative electrodes due to nail penetration, pressing, impact, exposure to high temperature and so forth (see line 20 on page 10 through lines 4 on page 11 of this application).

However, Langan fails to teach or suggest the above technical features as recited in the amended Claim 1.

Yageta is directed to a film-sealed nonaqueous electrolyte battery. However, it is submitted that Yageta, either alone or in combination with Langan, does not teach or suggest the claimed inner electrically conductive aluminum layer being electrically insulated from the negative or positive electrode, and the electrical connection structure between the aluminum layer and the positive **or** negative electrode terminal while being insulated from the negative or positive electrode, as recited in the amended Claim 1.

It is therefore submitted that neither Langan nor Yageta, either alone or in combination, teaches or suggests the subject matter claimed in the amended Claim 1, and thus *no suggestion or motivation* exists in the cited references. Accordingly, *prime facie* obviousness does not exist regarding the subject matter claimed in Claim 1 with respect to the cited references. Applicants respectfully submit that Claim 1 is now allowable over Langan and Yageta.

Claim 7 is also believed to be allowable, by means of its direct dependency from Claim 1.

Regarding Claims 10-15

Claims 10 and 15 are independent claims. Claim 11-14 are directly dependent from Claim 10.

Applicants have amended Claims 10 and 15 to more clearly define the subject matter of the claimed invention.

The amended Claims 10 and 15 includes, inter alia, the following limitation:

further comprises at least one electrically conductive metal foil on at least one of the outer upper and lower surfaces thereof, and the at least one electrically conductive metal foil is electrically connected with either of the positive and negative terminals

As above, the claimed invention includes at least one electrically conductive metal foil on at least one of the outer upper and lower surfaces thereof. Further, the electrically conductive metal foil is electrically connected with the positive or negative terminal (**not** electrode) while being insulated from the electrodes. Thus, the short circuit current can be dispersed toward the metal foil when a local short circuit occurs between the positive and negative electrodes due to nail penetration, pressing, impact, exposure to high temperature and so forth.

As the Examiner has admitted in the Office Action, Langan is silent as to having an electrically conductive foil on the outer upper or lower surfaces of the battery package.

Yageta is directed to a film-sealed nonaqueous electrolyte battery, and discloses a metal thin film layer (formed of Al, Sn, Cu, Ni, stainless steel) as an external layer of the case for the benefit of acting as a gas barrier. However, it is submitted that Yageta, either alone or in combination with Langan, does not teach or suggest the claimed electrical connection structure between the external metal foil and the positive or negative terminal, as recited in the amended Claims 10 and 15.

It is therefore submitted that neither Langan nor Yageta, either alone or in combination, teaches or suggests the subject matter claimed in the amended Claims 10 and 15, and thus *no suggestion or motivation* exists in the cited references. Accordingly, *prime facie* obviousness does not exist regarding the subject matter claimed in Claims 10 and 15 with respect to the cited references.

Applicants respectfully submit that Claims 10 and 15 are now allowable over Langan and Yageta.

Claims 11-14 are also believed to be allowable, by means of their direct dependency from Claim 10.

Applicants respectfully request the Examiner to review these submissions and withdraw the rejection on Claims 7, 10-14 and 15 under 35 U.S.C. §103(a).

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Reconsideration and subsequent allowance of this application are courteously requested.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Examiner is invited to contact Applicants' Attorneys at the below-listed telephone number with any questions or comments regarding this Response or otherwise concerning the present application.

Respectfully submitted,

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